

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
2 DIVISION

Lemmette D. Hark
Plaintiff,

CIV 09-4164

vs.

COMPLAINT

Minnehaha County Jail - Alvera McKennan Hospital
Defendant.

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes () No (X)

- B. If your answer to "A" is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county)

3. Docket number _____

4. Name of Judge to whom case was assigned _____

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____

6. Approximate date of filing lawsuit _____

7. Approximate date of disposition _____

II. PLACE OF PRESENT CONFINEMENT

Minnehaha County JailA. Is there a prisoner grievance procedure in this institution? Yes (☒) No ()B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes (☒) No () This was a complaint made to the city council. Carol Twedt also.

C. If your answer is yes,

I asked for an ambulance.1. What steps did you take? I called Public Defender Office. Complained about pain. Filled grievance. Arose about repro-cussions of the grievance. They do that.2. What was the result? There was no response on the grievance. I never got a copy. Chats two times I filled one out with no response. I did get more tests because of the blood test.

D. If your answer is no, explain why not

E. If there is no prison grievance procedure in the in the institution, did you complain to prison authorities? Yes (☒) No ()

F. If you answer is yes,

1. What steps did you take? I pushed the emergency button 3-4 times. nobody came. I told them I needed an ambulance. They laughed and said we can't do that. I called the public defenders.2. What was the result? At 10:00 AM took me to nurse, they gave me tylenol and malanda, told me to just lay down it will probably go away.

III. PARTIES

In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

A.

Name of Plaintiff

Kenneth D. Stark

Address

500 N. Minnesota Ave. Sioux Falls, S. Dak. 57104

In item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and places of employment of any additional defendants.

B.

Name of Defendant

Tim Devlin

who is employed as

Warden

at

Minnehaha County Jail

(2)

C.

Additional Defendants

Al. Penning and Staff - Medical Director - Glenview McKennan Hospital - Minnehaha County Sheriff Dept. staff and C.E.S.

IV. STATE OF CLAIM

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheet(s) if necessary.

On Sunday May 3rd, I started feeling sick. At approximately 5:00 AM, I pushed the emergency button. The officer asked what was wrong. I told her, I'm in a lot of pain and I need some help. She said she would call Med Staff. At about 5:30 AM, I called again. I got the same answer I will call Med Staff. I waited till about 6:00 AM no one came. So I pushed button again, she said again I will call Med Staff. I tried it one more time after that, no one showed up.

V. RELIEF

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I would like compensation for the pain, suffering and humiliation I went through from May 3rd to May 9th.

I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Signed and executed this 10th day of November, 2009.

Lanette D. Stark
Signature of Plaintiff

(9/96)

IV State Of Claims

Continued - They open the doors at 6:30 AM for breakfast. I went down stairs and, I told the C.O. that I was in a lot of pain, and I need an ambulance. He (Biggie) laughed and said we can't do that, I will call Med Staff. I didn't know what else to do, so I went back to my room and laid down. At 8:00 AM I got up and called the public defenders office. I asked for my lawyer, he wasn't there. I told the secretary that I was in a lot of pain, I need an ambulance, nobody here is doing anything to help me. She said she would call the warden. At about 10:00 AM the C.O. took me to the nurse. They did not have a clue what was wrong, they said "you hurt your back." I said I thought it could be a kidney stone. They said are you sure it's not something you ate. I said "it's a lot more serious than that." They gave me tylenol and malanta, and told me to just go lay down and it will probably go away. So, I went back to my unit and laid down. Tuesday a C.O. yelled out, "Stark if your not dying come and get your meds. I filled out a sick call sheet, and got to see jail Doc. He checked me and said, "I don't believe it's a kidney stone, but we will take a blood test just in case. At that time I filled out a grievance form. Every time you fill one out, they will hassle you, I never did get a reply

Friday they called me to see jail doc. They sent me directly to the hospital for more tests. They did a (CT, MRI) test. The results came back acute appendicitis, they said your appendix needs to come out now!! The Doctor told me that my appendix was sitting there festering, that if it would burst I could die.

I don't know if it was the blood test or the grievance, I believe the blood test got their attention, not the grievance.

During that week, especially that first day, the C.O.s were standing behind the counter looking at me and laughing. The C.O.s check your room every day, they never asked if I was feeling O.K. or anything.

Kenneth D. Stark